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5                   UNITED STATES DISTRICT COURT  
6                   WESTERN DISTRICT OF WASHINGTON  
7                   AT SEATTLE

8                   IN RE VALVE ANTITRUST LITIGATION

9                   No. 2:21-cv-00563-JNW

10                  ORDER CONSOLIDATING  
11                  CASES AND SETTING  
12                  BRIEFING SCHEDULE

13                  JOHN ELLIOTT, RICARDO CAMARGO,  
14                  JAVIER ROVIRA, and BRADLEY SMITH,

15                  Plaintiffs,

16                  v.  
17                  VALVE CORPORATION,

18                  Defendant.

19                  CONNOR HEPLER and AARON  
20                  LANCASTER, individually and on behalf  
21                  of all others similarly situated,

22                  Plaintiffs,

23                  v.  
24                  VALVE CORPORATION,

25                  Defendant.

1 BRANDON DRAKE and ERIC  
 2 SAAVEDRA, individually and on behalf of  
 3 all others similarly situated,

No. 2:24-cv-01743-JNW

4 Plaintiffs,

5 v.  
 6 VALVE CORPORATION,

7 Defendant.

## 1. CONSOLIDATION

8 There are several related cases pending before this Court: (1) *In re Valve*  
*9 Antitrust Litigation*, Case No. 2:21-cv-00563; (2) *Elliott v. Valve Corp.*, Case No.  
*10 2:24-cv-01218-JNW*; (3) *Hepler v. Valve Corp.*, Case No. 2:24-cv-01735-JNW; and (4)  
*11 Drake v. Valve Corp.*, Case No. 2:24-cv-01743-JNW. The plaintiffs in all cases  
*12* include PC video game consumers, and they allege that Defendant Valve Corp. has  
*13* used anticompetitive restraints on trade to monopolize the PC game distribution  
*14* market thereby harming consumers. *In re Valve Antitrust Litigation*<sup>1</sup> was the first  
*15* filed case, but because of a litigation stay, it and the other cases are in the relatively  
*16* early stages of litigation. The cases all involve a common defendant, involve  
*17* common questions of law, and arise from the same set of facts.

18 “If actions before the court involve a common question of law or fact, the court  
 19 may: (1) join for hearing or trial any or all matters at issue in the actions; (2)  
 20 consolidate the actions; or (3) issue any other orders to avoid unnecessary cost or

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 22 <sup>1</sup> *In re Vale Antitrust Litigation* is a consolidated case, and the member cases are: *Dark Catt*  
*23 Studios Holdings Inc. et al. v. Valve Corp.*, Case No. 2:21-cv-00872 (involving game developer  
 claims against Valve), and *Colvin et al. v. Valve Corp. et al.*, Case No. 2:21-cv-00650-JCC  
 (putative PC video game consumer class).

1 delay.” Fed. R. Civ. P. 42(a). “District courts have ‘broad discretion under this rule  
2 to consolidate cases pending in the same district.’” *Abbott v. Amazon.com Inc.*, No.  
3 2:23-CV-1372-JNW, 2023 WL 7496362, at \*1 (W.D. Wash. Nov. 13, 2023) (quoting  
4 *Investors Rsch. Co. v. U.S. Dist. Ct. for the Cent. Dist. of Cal.*, 877 F.2d 777, 777 (9th  
5 Cir. 1989)). In fact, “trial courts may consolidate cases *sua sponte*.” *In re Adams  
6 Apple, Inc.*, 829 F.2d 1484, 1487 (9th Cir. 1987). In deciding whether consolidation  
7 is appropriate, courts consider “the interest of judicial convenience against the  
8 potential for delay, confusion and prejudice caused by consolidation.” *Denise S. v.  
9 Foreman*, No. 2:22-CV-09237-MEMF-PD, 2024 WL 2002217, at \*1 (C.D. Cal.  
10 Apr. 26, 2024) (quoting *Knox v. Yingli Green Energy Holding Co.*, 136 F. Supp. 3d  
11 1159, 1162 (C.D. Cal. 2015)); *see Pecznick v. Amazon.com, Inc.*, No. 2:22-CV-00743-  
12 TL, 2022 WL 4483123, at \*3 (W.D. Wash. Sept. 27, 2022) (“Factors relevant to the  
13 analysis include judicial economy, whether consolidation would expedite resolution  
14 of the case, whether separate cases may yield inconsistent results, and the potential  
15 prejudice to a party opposing consolidation.” (internal quotations omitted)).

16 The Court finds that given the sole defendant and overlapping factual and  
17 legal issues, consolidation will promote judicial economy, ensure consistent results,  
18 and streamline matters overall. The parties acknowledge and accept that  
19 consolidation is the most sensible plan. *See In re Valve Antitrust Lit.* Dkt. No. 373;  
20 *Elliott* Dkt. No. 49. On its own accord, the Court exercises its discretion to  
21 consolidate the pending putative consumer class action cases against Valve.

1       The Court ORDERS as follows:

- 2       1.1      Under Rule 42(a), *In re Valve Antitrust Litigation*, No. 2:21-cv-00563;  
3                   *Elliott v. Valve Corp.*, Case No. 2:24-cv-01218-JNW; *Hepler v. Valve*  
4                   *Corp.*, Case No. 2:24-cv-01735-JNW; and *Drake v. Valve Corp.*, Case  
5                   No. 2:24-cv-01743-JNW are consolidated for all purposes. If  
6                   developments in the case show that consolidation is no longer justified,  
7                   the parties may move for appropriate relief.  
8        1.2      Since it's the lowest-numbered case, *In re Valve Anitrust Litigation* will  
9                   constitute the main docket for the consolidated action, and all future  
10                  filings must be made under Case No. 2:21-cv-00563-JNW and should  
11                  be captioned as:

12                  IN RE VALVE ANTITRUST  
13                  LITIGATION

14                  No. 2:21-cv-00563-JNW

15                  This Filing Relates to:  
16                  [ALL ACTIONS]

- 17        1.3      When filing a document that pertains to all actions, the phrase "ALL  
18                  ACTIONS" must appear just after the phrase "This Document Relates  
19                  To" in the caption. When a filing pertains to some, but not all, actions,  
20                  the document must list the docket number for each individual action to  
21                  which the document applies and the last name of the first-listed  
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1 plaintiff in the relevant action just after the phrase “This Document  
2 Relates To.”

3 1.4 The motion to consolidate in *Elliott*, Dkt. No. 49, is DENIED as moot.  
4 The Clerk is DIRECTED to leave the motion at *In re Valve Antitrust*  
5 *Lit.*, Dkt. No. 373 pending, as it includes a separate motion for  
6 appointment of interim lead class counsel that has not yet been  
7 decided.

8 1.5 The motion to intervene in *In re Valve Antitrust Lit.*, Dkt. No. 377, is  
9 GRANTED.

10 1.6 The motion to intervene in *Elliott*, Dkt. No. 33, is DENIED as moot.

11 **2. INTERIM LEAD CLASS COUNSEL**

12 Relatedly, Sean Colvin, Susann Davis, Hope Marchionda, Everett Stephens—  
13 the putative consumer class plaintiffs in *In re Valve Antitrust Litigation* (“Colvin  
14 Plaintiffs”)—have moved to appoint their attorneys (“Colvin Counsel”) as interim  
15 lead counsel for any putative consumer class. John Elliott, Ricardo Camargo, Javier  
16 Rovira, and Bradley Smith—the putative consumer class plaintiffs in *Elliott*  
17 (“Elliott Plaintiffs”)—oppose this motion and move to appoint their attorneys as  
18 class counsel (“Elliott Counsel”).

19 To ensure that all parties have their say about who should be appointed as  
20 interim class counsel for the putative consumer class in light of the Court’s  
21 consolidation order, and to promote efficiency, the Court ORDERS:

2.1 The deadline for the Colvin and Elliott Plaintiffs to amend their motions to appoint interim lead class counsel for the putative consumer class is **December 20, 2024**.

2.2 To date, the Hepler and Drake Plaintiffs have not filed or joined a motion addressing interim lead class counsel. Thus, they may, but need not, file a motion to appoint interim lead class counsel by **December 20, 2024.**

2.3 The response deadline for any amended motion to appoint interim lead class counsel is **January 10, 2025**. If the moving party was entitled to file an amended motion but chose not to do so, the responding party may still amend any previously filed response to account for new developments in Valve-related litigation. Each Party may file **one, consolidated response brief**, not to exceed **8,400 words**.

2.4 The deadline to file a reply, if any, is **January 17, 2025**. Each Party may file **one, consolidated reply brief**, not to exceed **4,200 words**.

2.5 The Clerk is DIRECTED to issue this Order on the dockets of *Elliott v. Valve Corp.*, Case No. 2:24-cv-01218-JNW; *Hepler v. Valve Corp.*, Case No. 2:24-cv-01735-JNW; and *Drake v. Valve Corp.*, Case No. 2:24-cv-01743-JNW.

Dated this 6th day of December, 2024.

  
Jamal N. Whitehead  
United States District Judge